

# Senate Budget & Fiscal Review

*Senator Wesley Chesbro, Chair*



## Subcommittee No. 3 on Health, Human Services, Labor, & Veterans Affairs

Senator Wesley Chesbro, Chair  
Senator Gilbert Cedillo  
Senator Tom McClintock  
Senator Bruce McPherson  
Senator Deborah Ortiz

April 19 , 2004  
10:00 AM  
Room 4203

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<u>Item</u>	<u>Description</u>
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| • 4300 | Department of Developmental Services <ul style="list-style-type: none"><li>• Community-Based Services (<i>Selected Issues</i>)</li><li>• State Developmental Centers (<i>Selected Issues</i>)</li></ul> |
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**PLEASE NOTE:** Only those items contained in this agenda will be discussed in the hearing. Issues will be discussed in the order as noted in the Agenda unless otherwise determined by the Chair.

Issues pertaining to the DDS will be reviewed again at the Subcommittee's May 10<sup>th</sup> "OPEN" issues hearing, and again at the time of the Governor's May Revision. *Please see the Senate File for dates and times of subsequent hearings.*

Testimony will be limited due to the volume of issues. Please be direct and brief in your oral comments so that others may have the opportunity to testify. Written testimony is also welcomed. Thank you for your consideration.

## **A. BACKGROUND**

### **Description of Eligibility & Purpose of Department**

The Department of Developmental Services (DDS) administers services in the community through 21 Regional Centers and in state Developmental Centers for persons with developmental disabilities according to the provisions of the Lanterman Developmental Disabilities Services Act. **To be eligible for services, the disability must begin before the consumer's 18<sup>th</sup> birthday, be expected to continue indefinitely, present a significant disability and be attributable to certain medical conditions, such as mental retardation, autism, and cerebral palsy.**

**The purpose of the department is to (1)** ensure that individuals receive needed services; **(2)** ensure the optimal health, safety, and well-being of individuals served in the developmental disabilities system; **(3)** ensure that services provided by vendors, Regional Centers and the Developmental Centers are of high quality; **(4)** ensure the availability of a comprehensive array of appropriate services and supports to meet the needs of consumers and their families; **(5)** reduce the incidence and severity of developmental disabilities through the provision of appropriate prevention and early intervention service; and **(6)** ensure the services and supports are cost-effective for the state.

### **Description and Characteristics of Consumers Served**

The department occasionally produces a Fact Book which contains pertinent data about persons served by the department. The sixth annual edition, released in October 2003 contains some interesting data, including the following facts:

#### **Department of Developmental Services—Demographics Data from 2002**

<b>Age</b>	<b>Number of Persons</b>	<b>Percent of Total</b>	<b>Residence Type</b>	<b>Number of Persons</b>	<b>Percent of Total in Residence</b>
Birth to 2 Yrs.	20,532	11.0%	Own Home-Parent	131,350	70.3%
3 to 13 Yrs.	54,626	29.2%	Community Care	27,260	14.6%
14 to 21 Yrs.	30,033	16.1%	Independent Living /Supported Living	15,960	8.5%
22 to 31 Yrs.	26,136	14.0%	Skilled Nursing/ICF	8,693	4.7%
32 to 41 Yrs.	23,254	12.4%	Developmental Center	3,603	1.9%
42 to 51 Yrs.	18,820	10.1%			
52 to 61 Yrs.	9,123	4.9%			
62 and Older	4,342	2.3%			
<b>Totals</b>	<b>186,866</b>	<b>100%</b>		<b>186,866</b>	<b>100%</b>

### Summary of Governor's Proposed Budget Overall

The budget proposes total expenditures of \$3.4 billion (\$2.169 billion General Fund), for a *net* increase of \$131 million (\$114.2 million General Fund) over the revised 2003-04 budget, to provide services and supports to individuals with developmental disabilities living in the community or in state Developmental Centers. Though the Governor's budget reflects considerable reductions, the funding level of \$3.4 billion (total funds) is an increase of 4 percent over the revised current-year.

Of the total amount, \$2.708 billion (\$1.8 billion General Fund) is for services provided in the community, \$690.1 million (\$370.3 million General Fund) is for support of the state Developmental Centers, \$31.2 million (\$20 million General Fund) is for state headquarters administration and \$4 million (General Fund) is for state-mandated local programs.

<b>Summary of Expenditures</b> (dollars in thousands)	2003-04	2004-05	\$ Change	% Change
<b>Program Source</b>				
Community Services Program	\$2,554,079	\$2,708,500	\$154,421	6.0
Developmental Centers	\$714,844	\$690,076	-24,768	-3.5
State Administration	\$29,857	\$31,251	1,394	4.7
State Mandated Local Program	\$4	\$4	--	--
Total, Program Source	\$3,298,784	\$3,429,831	\$131,047	4.0
<b>Funding Source</b>				
General Fund	2,054,876	2,169,085	114,911	5.9
Federal Funds	52,200	53,341	1,141	2.2
Program Development Fund	1,431	1,496	65	4.5
Lottery Education Fund	2,221	2,221	--	--
Developmental Disabilities Services	0	300	300	300
Reimbursements: including Medicaid Waiver, Title XX federal block grant and Targeted Case Management	1,188,056	1,203,388	15,332	1.3
Total	\$3,298,784	\$3,429,831	\$131,047	4.0

## **B. COMMUNITY BASED SERVICES**

### **Background on Regional Centers**

The DDS contracts with 21 not-for-profit Regional Centers (RCs) which have designated catchment areas for service coverage throughout the state. The RCs are responsible for providing a series of services, including case management, intake and assessment, community resource development, and individual program planning assistance for consumers. RCs also purchase services for consumers and their families from approved vendors and coordinate consumer services with other public entities.

### **Background on Growth in RC Caseload and Expenditures (See Hand Out)**

As noted in the “Regional Centers Budget History” Chart in the Hand Out package, total spending for the Regional Centers budget has increased from \$1.4 billion (total funds) in 1998-99 to \$2.6 billion (total funds) in 2003-04, for an increase of \$1.2 billion (total funds) or almost 86 percent in five years.

The Purchase of Services category expenditures has increased from almost \$1.4 million (total funds) in 1998 to over \$2.5 billion (total funds) in 2003 for an increase of \$1.1 billion in five years, or 82 percent. During this same period, caseload increased by 46,361 individuals, or 32 percent.

According to the LAO, the average annual cost per Regional Center consumer increased steadily between 1998-99 and 2003-04 from about \$9,500 to \$13,400. The Governor’s proposed budget would bring the estimated cost per consumer in 2004-05 to about \$13,600.

Last year, the LAO noted that the rate of growth proposed in the budget was greater than for most other major health and social services caseload programs. The LAO also noted that unlike most health and social services provided by the state, the amount of services provided by the Regional Centers is not limited through statewide standards.

The LAO also notes that between 1999-2004 and 2004-05, the Regional Center caseload is projected to grow from about 155,000 to more than 199,000 consumers—an average annual growth rate of about 5.2 percent. If caseload growth trends hold steady over the next five years, it would approach 245,000 by 2008-09. This caseload trend is illustrated in the chart below.

**LAO Caseload Chart**

<b>Fiscal Year</b>	<b>RC Caseload</b>	<b>Yearly Difference</b>	<b>Percent Increase</b>
1999-2000	154,962		
2000-2001	163,613	8,651	5.6%
2001-02	172,505	8,892	5.4%
2002-03	182,175	9,670	5.6%
2003-04 (Estimated)	190,030	7,855	4.3%
2004-05 (Proposed)	199,295	9,265	4.9%

**Several key factors appear to be driving caseload growth trends, including the following:**

- Improved medical care and technology has increased life expectancies for individuals with developmental disabilities;
- Significant increase in the diagnosed cases of autism, the causes of which are not yet fully understood;
- Likelihood that medical professionals are identifying more developmentally disabled individuals at an earlier age.

### **Summary of Governor's Proposed Budget for Community-Based Services**

**The budget proposes expenditures of \$2.7 billion (\$1.8 billion General Fund) for community-based services, provided via the RCs, to serve a total of 199,295 consumers living in the community. This reflects a *net* overall increase of \$177.3 million (\$108.3 million General Fund), or 7.1 percent, over the revised 2003-2004 budget.**

**Most of the proposed increase of \$177.3 million (\$108.3 million General Fund) is attributable to: (1) the increase in enrollment—9,265 new consumers, (2) loss of \$38 million in federal matching funds due to the Medicaid match change, (3) increase in the utilization of services by consumers, and (4) the transfer of the Habilitation Services Program to the DDS.**

**The funding level includes \$420.1 million for RC Operations and about \$2.3 billion for local assistance, including funds for the Purchase Of Services for consumers, program development assistance, the Early Start Program, and habilitation services. The Purchase Of Services (POS) portion of the Regional Center budget accounts for about 80 percent of total expenditures, whereas the RC Operations portion accounts for about percent of it.**

### **Summary of Governor's Proposed Reductions**

**The Governor proposes to reduce by \$100 million (General Fund) community-based services and supports for RC consumers in 2004-05. This reduction amount is in *addition* to the continuing cost containment actions enacted in the Budget Act of 2003 which in total, equate to savings of about \$64 million (\$52.4 million General Fund) in 2004-05. Further, it should be noted that in order for the Administration to obtain the proposed reduction figure of \$100 million General Fund, in actuality, a reduction of about \$130 million would need to be enacted due to federal funding interactions.**

**The Administration contends the reduction will be achieved through a number of proposals to be implemented in 2004-05 and 2005-06.** Further detail as to how this reduction will be achieved are to be forthcoming at the May Revision. At this time, the Administration has provided only a conceptual outline of assumptions as follows:

#### **2004-05**

- Develop and implement uniform statewide purchase of services standards to govern RCs' expenditures for consumers and families;
- Give the state access to funds currently shielded in "special needs" trusts which are established for the care of the consumers;
- Promulgate statutory changes to provide RCs the authority and flexibility to achieve the savings level specified in the budget; and
- Implement a parental co-payment program, as referenced above.

#### **2005-06**

- Implement a standard, statewide rate system for major categories of services purchased by the RCs;
- Obtain federal approval to implement a Medicaid (Medi-Cal) "Independence Plus" (self-directed services) model of funding and service delivery, as well as a state-only version (for non-Medi-Cal eligible consumers) of the model in order to cap individual expenditures in exchange for increased consumer control over the services provided; and
- Expand the parental co-payment program for services purchased by RCs to children birth to three years of age as applicable. Federal approval would be required for this action.

**It is equally unclear at this time what interaction this proposal will have with the Administration's Medi-Cal Waiver reform concept, the Administration's proposed reductions to the In-Home Supportive Services (IHSS) Program, and the Administration's proposed changes to the definition of "medical necessity" for mental health services provided under the Early Periodic Screening Diagnosis and Treatment (EPSDT) Program.**

**The Medi-Cal, IHSS and EPSDT programs all provide "generic" services to RC consumers in need of these services. When these generic services are not available, a RC is to purchase the needed service for the consumer. As such, the potential for cost-shifting, conflicts in policy, and potential risks to consumer health and safety could be significant. Considerable discussion and clarity as to both the short-term and longer-term implications of these proposals in combination need to be clearly understood.**

It is equally unclear what potential ramifications this proposal will have on California's implementation of the Olmstead Decision (1999, 527 U.S. 581), as well as on our existing Home and Community-Based Waiver (up for federal oversight review in late 2005).

## **B. ITEMS FOR DISCUSSION**

### **1. Cost Containment From Budget Act of 2003 & Governor's Proposed Budget** **(See Hand Out)**

#### **Background—Budget Act of 2003 and Governor's Proposed Continuation of Actions:**

Through the Budget Act of 2003, several cost containment actions were enacted in lieu of implementing any over-arching proposal to implement statewide purchase of services standards. **The Governor is proposing to continue all of these cost containment actions through 2004-05, in addition to proposing other cost reduction items as discussed in this agenda.**

**Specifically, the proposals include the following items (savings shown reflect updated information for 2003-04).**

- Reduced by \$10 million (General Fund) the Purchase of Services item to reflect an “unallocated” reduction. **The Governor proposes to continue this same level of adjustment for 2004-05. In addition, the Administration proposes changes to existing statute regarding this provision. Specifically, it does the following:**
  - Changes the fiscal year from 2003-04 to 2004-05 for the reduction.
  - Changes from 30 days to 60 days the time the DDS has to discern each RC's unallocated amount (to total the \$10 million).
  - Modifies language so that the RCs provide a final plan to the DDS but that the DDS no longer has to review and approve the plan.
  - Continues the sunset clause, as established in last year's budget, which makes this provision inoperative as of January 1, 2006.
- Decreased by \$2.1 million (General Fund) by applying the federal standard for substantial disability to the state's criteria of eligibility. **The budget continues this adjustment for estimated savings of \$4.2 million (General Fund) in 2004-05. No statutory changes are proposed.**
- Eliminated the SSI/SSP rate pass-through to Community Care Facilities (CCFs) for savings of \$900,000 General Fund. **The budget continues this action for savings of \$900,000 (General Fund) in 2004-05. No statutory changes are required.**
- Implemented a service level freeze for CCFs for savings of \$7 million General Fund. **The Governor continues this freeze in 2004-05 for savings of \$7.6 million (General Fund). A minor date change to reflect the appropriate fiscal year is proposed in trailer bill legislation.**
- Suspended funding for the start-up of new services unless it was associated with the placement of an individual in the community (i.e., directly pertained to the “community placement program”), or was necessary to protect consumers' health or safety for saving of \$6 million (General Fund). **The Governor continues this freeze in 2004-05 for savings of \$6 million (General Fund). A minor date change to reflect the appropriate fiscal year is proposed in trailer bill legislation.**
- Implemented a rate freeze on Adult Day Programs and in-home respite services related to any program design modifications for savings of \$9.8 million (General Fund). **The budget proposes to**

**continue this rate freeze for savings of \$10.9 million (General Fund). A minor date change to reflect the appropriate fiscal year is proposed in trailer bill legislation.**

- Implemented a rate freeze for vendor-provided services conducted under contract to the Regional Centers. This included vendors for the following types of services: Supported Living, Independent Living, Transportation, socialization training programs, behavior intervention training, community integration training, mobile day programs, creative art programs, supplemental day services, and adaptive skills trainers for savings of \$7.2 million (General Fund). **The budget proposes to continue this rate freeze for savings of \$8.3 million (General Fund). A minor date change to reflect the appropriate fiscal year is proposed in trailer bill legislation.**
- Continued the action from the Budget Act of 2002 to extend the amount of time allowed for the Regional Centers' to conduct assessment of new consumers from 60 days to 120 days following initial intake for savings of \$4.5 million (General Fund). **The budget proposes to continue this rate freeze for savings of \$4.5 million (General Fund). A minor date change to reflect the appropriate fiscal year is proposed in trailer bill legislation.**

**Governor's Proposed Budget—Continues All Actions:** The Governor's budget continues all of the savings proposals enacted in the Budget Act of 2003, as noted above, in his proposed 2004-05 budget for savings of **\$64 million (\$52.4 million General Fund)**. **The Administration is also proposing trailer bill language as contained in the Hand Out and as referenced above.**

**Subcommittee Staff Recommendation:** Subcommittee staff recommends to adopt the proposal as referenced except for one language change. With respect to the "unallocated" reduction trailer bill language, it is recommended *not* to accept the change from 30-days to 60-days for the DDS to decide an allocation method for the unallocated reduction. The RCs are required to adopt a plan 60-days after enactment of the Budget Act. As such, the DDS needs to inform each Regional Center of the amount of unallocated it needs to absorb within a more timely manner—such as 30-days.

**Subcommittee Request and Questions:** The Subcommittee has requested the DDS to respond to the following questions:

- 1. Please very briefly describe the budget proposal.
- 2. Has the DDS identified any significant reduction in services that has occurred due to these actions?

**Budget Issue:** Does the Subcommittee want to adopt the Subcommittee staff recommendation, the Administration's proposal, or craft another option?



## **2. Vendor Auditing Issue—Legislative Analyst Office (LAO) Issue (See Hand Out)**

**Background—Vendors for Regional Center Services:** As noted by the LAO, many vendors who provide services through the Regional Center system do not participate in the Medi-Cal Program. Although they may provide some services that are similar in nature to those of Medi-Cal providers, they are not subject to the same statewide, centrally coordinated effort aimed at deterring abuse and fraud to which Medi-Cal providers are subject. **As such, the LAO notes that this arrangement does not provide an adequate safeguard for the expenditure of very significant amounts of state funds that flow each year through non-Medi-Cal vendor contracts. (Medi-Cal providers are subject to DHS state reviews related to the state's Medi-Cal anti-fraud efforts.)**

**Background—Limited State Audit Role:** Through the state contract process (Article II Fiscal Provisions, Section 10 Vendor Fiscal Monitoring), the DDS directs the Regional Centers to conduct vendor audits and provide information to the DDS. Existing state law (Section 50606) address what the Regional Centers are to audit and how the resulting audit reports are to be distributed.

**The DDS has established Regional Center “vendor audit protocols” to serve as basic guidance to the Regional Centers which are intended to ensure that audits are conducted in a similar manner throughout the state.** According to the DDS, overall there are eleven separate, stand-alone, protocols that have been developed for each type of audit a Regional Center would need to conduct. **The eleven vendor audit protocols include the following:** (1) billing—other (other than attendance, mileage, or consultant hours), (2) billing—attendance or mileage, (3) billing—consultant hours, (4) billing—family voucher day care/in-home respite, (5) contract compliance, (6) cost statement—on-site audit, (7) cost statement-desk review, (8) fiduciary—contracted management for consumers', (9) personal & incidental, (10) staffing level, and (11) staffing ratio.

**It should be noted that in some cases, a Regional Center may request that DDS participate in an audit of a vendor. However, as noted by the LAO, DDS headquarters is neither staffed to perform vendor audits, nor is this one of their regular functions.**

**Summary of Regional Center Fiscal Monitoring for 2002-03 (See Hand Out):** As shown on the chart, Regional Centers are required to conduct a certain number of audits (see Total Required column). Often times, the Regional Centers actually conduct more vendor audits than required (Total Audits column). **However, the LAO has questioned the level of audit recovery (Fiscal Impact column) that is identified through these audits. They believe that for a program of this magnitude (over \$2.7 billion for community programs), additional audit exceptions should on the natural be identified (i.e., as identified by Dr. Sparrow, national expert on abuse and fraud). Further, collection of these audit recoveries (offsets to future payments is usually done) have not always been clearly tracked.**

**Legislative Analyst’s Office Comment and Recommendation—Shift Responsibility Back to State:** The LAO analysis indicates that the responsibility for vendor field audits should be shifted from the Regional Centers to the state. This would provide the state with a stronger fiscal oversight role of vendors and would serve to better coordinate these efforts on a statewide basis. In addition, this would relieve the Regional Centers of part of their workload and allow them to focus more on providing services to Regional Center consumers.

Since the DDS is not staffed to perform field audits of vendors, the LAO contends that about \$2.9 million of the \$4.4 million in funding now provided for Regional Center audit functions could need to be eventually transferred from the RC Operations budget to the DDS state support budget. This action would also require modifications to the existing RC contracts with the state.

**As such the LAO recommends for the DDS to report back to at budget hearings on whether it would be more cost-effective to have the state conduct the audits or to contract out for them. In addition, the DDS should also report back on a timeline necessary for completing such a shift.**

**Subcommittee Staff Comment and Recommendation:** Subcommittee staff concurs with the LAO that increased fiscal oversight of vendors is needed and that the state could potentially conduct more comprehensive audits, particularly of larger vendors. **As such, it is recommended to have the DDS provide the Subcommittee with a proposal, including resources, timeline and work plan) and trailer bill language (if needed) for the implementation of a more comprehensive vendor audit process. In addition, any applicable savings that could be attributed to this more comprehensive protocol should also be included.**

**Subcommittee Request and Questions:** The Subcommittee has requested the LAO and DDS to respond to the following questions:

- 1. LAO, Please provide a brief presentation of your proposal, including concerns expressed regarding the identification of audit exceptions (i.e., fiscal offsets).
- 2. DDS, Could the vendor audit process be improved? If so, what suggestions may you have at this time?

**Budget Issue:** Does the Subcommittee want to direct the DDS to report back at the May Revision as described?

### **3. Request for DDS Headquarters' Resources for Selected Cost Containment Issues— Finance Letter**

**Background—Governor's Overall Cost Containment Proposal:** The Governor proposes to reduce by \$100 million (General Fund) community-based services and supports for RC consumers in 2004-05. This reduction amount is in *addition* to the continuing cost containment actions enacted in the Budget Act of 2003 which in total, equate to savings of about \$64 million (\$52.4 million General Fund) in 2004-05. Further, it should be noted that in order for the Administration to obtain the proposed reduction figure of \$100 million General Fund, in actuality, a reduction of about \$130 million would need to be enacted due to federal funding interactions.

The Administration contends the reduction will be achieved through a number of proposals to be implemented in 2004-05 *and* 2005-06. Further detail as to how this reduction will be achieved are to be **forthcoming at the May Revision**. At this time, the Administration has provided only a conceptual outline of assumptions as follows:

#### **2004-05 (Budget Year)**

- Develop and implement uniform statewide Purchase of Services Standards to govern RCs' expenditures for consumers and families (*to be discussed below in item 6 in this Agenda*);
- Give the state access to funds currently shielded in "special needs" trusts which are established for the care of the consumers; (*Administration states this is to be postponed to 2005-06*)
- Promulgate statutory changes to provide RCs the authority and flexibility to achieve the savings level specified in the budget (*tied to statewide POS issue*); and
- Implement a parental co-payment program (*to be discussed below in item 5 of this Agenda*).

#### **2005-06 (Out Year)**

- Implement a standard, **statewide rate system for major categories of services** purchased by the RCs;
- Obtain federal approval to implement a **Medicaid (Medi-Cal) "Independence Plus" (self-direction of services) model** of funding and service delivery, as well as a state-only version (for non-Medi-Cal eligible consumers) of the model in order to cap individual expenditures in exchange for increased consumer control over the services provided; and
- Expand the parental co-payment program for services purchased by RCs to children birth to three years of age as applicable. Federal approval would be required for this action.

**Background—Standardized Rate System:** The DDS is required to establish rates for supported-living, non-residential services (including Day Programs and in-home respite), transportation and other services. In some instances, the rate of reimbursement is determined based on negotiations between the Regional Center and the vendor providing the service. As a result, vendors providing the same type of service receive rates that can vary—on a statewide basis and within a Regional Center catchment area.

In other cases, rate methodologies vary across service sectors for other reasons. For example, the Day Program rates can vary considerably due to lower limit and upper limit adjustments. If a Day Program's cost statement rate is below the lower limit or above the upper limit of the allowable range for their peer (like) programs, then it is adjusted up to the lower limit of the range or reduced down to the upper limit of the range respectively.

Another example is that for some services, new vendors receive a temporary payment rate, which is the mean rate for all like programs, determined by utilizing cost data submitted by existing programs. Within 18 months, the new vendor must submit 12 months of actual costs to the DDS for establishment of the vendor's permanent payment rate. As a result, new vendors have their permanent payment rates established based on the most recent 12 months of costs. For existing (older) programs, 12 months of actual costs for the *prior* fiscal year are submitted, but by the time the rates are calculated and the budget process is completed, two years have elapsed. So the rates become staggered over time.

**The DDS recognizes that rate reform to establish a rate setting methodology that is fair and equitable to all providers/services and takes into account geographical differences is needed. Further they contend that standardization will provide cost containment.**

**Background—Self-Directed Services Waiver:** Self-Direction pilot projects were developed in accordance with SB 1038 (M. Thompson), Statutes of 1998. Generally, Self-Direction is a funding model based on the principles of freedom (to plan a life with necessary supports) authority (to control a certain sum of dollars), support (to arrange resources and personnel to assist with living in and becoming a part of the community), and responsibility (to accept a valued role in the community and to be accountable for spending public dollars).

**Self-Direction has garnered international and bi-partisan support and has been integrated or piloted in at least 17 states.** As noted in the longitudinal analysis of the pilots, released in a report in May 2002, self-direction results in high satisfaction among participants and is cost-beneficial. The DDS proposes to design a Self-Direction Program that employs a fair and equitable way to set individual budgets at 90 percent of current expenditures and use half of the ten percent savings to establish a risk pool for unanticipated needs. The DDS notes that a Waiver (Independence Plus) would be used to maximize federal financial participation to have an array of inclusive services and supports. As such, it is anticipated that cost savings will result in 2005-06 in this area.

**DDS Finance Letter Request—9 Positions at DDS for Various Cost Containment Activities:**

In an April Finance Letter, the DDS is requesting **an increase of \$1.5 million (\$1.3 million General Fund** and \$171,000 Reimbursements from the DHS—of which \$86,000 is state General Fund) to:

- Hire **9 state positions at the DDS** for expenditures of \$900,000 (total funds);
- Hire **consultant services for rate reform** for one-time expenditures of \$500,000 (total funds). These funds would be budgeted in the Regional Center appropriation; and
- Hire **consultant services for Self-Determination Waiver** (“Independence Plus Waiver”) for one-time expenditures of \$100,000 (total funds). These funds would be budgeted in the Regional Center appropriation.

The DDS states that **the nine state positions are needed as follows:**

- **Standardize Rate System—4 total positions.**
  - One Staff Services Manager position
  - One Community Program Specialist II position
  - One Associate Governmental Program Analyst position
  - One Staff Information Systems Analyst position
- **Self-Directed Services Waiver—2 total positions.**
  - Two Community Program Specialist II positions (two-year limited-term)
- **Legal Office—one position.**
  - One Staff Counsel III—to address in the legal issues that will arise regarding the development and implementation of these issues.
- **Statewide Purchase of Services Standards—2 total positions.**
  - One Community Program Specialist III position
  - One Community Program Specialist II position

With respect to **standardizing rates**, the DDS notes the following key work load requirements:

- A multi-year approach is needed to review with stakeholders the existing methodologies applicable to their programs, identify and develop alternatives, identify and develop statutory and regulatory changes as needed, and implement and revise the methodology as needed.
- Consultant services will be necessary to conduct research and provide technical assistance and recommendations relative to costs and other information to calculate appropriate rates.

With respect to the **Self Directed Services Waiver**, the DDS notes the following key aspects:

- The two positions provided last year by the Legislature were swept by the Administration as part of the Control Section 4.10 reduction.
- This proposal seeks to restore them.

With respect to the **legal support**, the DDS notes the following key aspects:

- The one position is needed to address statute changes, regulatory oversight and related issues that would arise as development and implementation on the cost containment proposals proceed.

With respect to the **Statewide Purchase of Services** the DDS notes the following key aspects:

- The two positions are needed given that the development of these standards will raise the most sensitive and complex policy and legal issues affecting the community developmental services system in many, many years. These standards will impact nearly 200,000 consumers and families and over 60,000 vendors and service providers.
- These positions are needed for researching and resolving complex policy and legal issues, working with stakeholders, writing the standards, and shepherding the package through the regulatory process. To meet the requirements of the Administrative Procedures Act, these standards need to be well crafted, legally sound, acceptable to the community, and defensible. These positions would be needed to provide technical assistance and monitoring on an ongoing basis after adoption.

**Subcommittee Staff Comment and Recommendation:** Subcommittee staff believes there is merit to developing a standardized rate system and proceeding with the development of the Self-Directed Services Waiver. The DDS rate system is antiquated and sometimes inequitable in its application across services and provider types. The outcomes achieved to-date from the Self-Directed Pilots have shown that it is a model to expand for both consumer-driven reasons as well as for cost containment purposes. In addition, given the magnitude and scope of these items, in addition to issues regarding the receipt of federal funds, the one position for Legal Services is likely needed. **Therefore, it is recommended to approve 7 of the 9 positions, as well as the contract funds, pending the receipt of the Governor's May Revision.** It should be noted that any statutory changes needed to proceed with implementation of any new rate structure or related statutory changes would have to come back to the Legislature for review and adoption as warranted.

In addition, it is recommended to keep OPEN the Subcommittee's decision regarding the two positions for development of the statewide Purchase of Services standards until the substantive policy issues are resolved or denied. *(The policy merits of this will be discussed under item 6, below.)*

**Subcommittee Request and Questions:** The Subcommittee has requested the DDS to respond to the following questions:

- 1. Please describe the Finance Letter proposal and the need for the positions.

#### **4. Update and Potential for Other Federal Funding Options (See Hand Out)**

**Background--DDS Efforts to Obtain Increased Federal Funding (See Hand Out):** Over the course of the past several years, the state has been aggressively pursuing receipt of additional federal funds. **As noted in the Hand Out package, from 1999-2000 to 2003-04 the DDS has been able to increase the state's receipt of federal funds for services provided to individuals with developmental disabilities from \$519 million (1999-2000) to an estimated \$882.2 million (2004-05) for an increase of almost 70 percent in four years.**

**Most notably, receipt of federal funds under the Home and Community-Based Waiver has increased from \$270 million (1999-2000) to \$546.3 million (2003-04), or over 102 percent during this time.** The Waiver has allowed the state to conserve General Fund dollars by shifting Medicaid (Medi-Cal) eligible consumers to Waiver services while granting flexibility and assisting the state in complying with the Coffelt Settlement and the Olmstead Decision. **A portion of the additional federal Waiver funds have also been used to enhance quality assurance measures, service monitoring, and several other items.**

**Targeted Case Management (TCM) services** has shown a more gradual adjustment. Under TCM, case management services are furnished to consumers in order to provide access to needed medical, educational and social services. Persons with developmental disabilities are identified as being a "targeted" group under California's State Medicaid Plan as provided for under federal law.

**This TCM approach enables California to draw a federal match for these services, versus using solely General Fund support. Functions allowed to be claimed under TCM include:** (1) consumer assessment, (2) development of a specific care plan, (3) referral and related activities to assist the consumer to obtain needed services, and (4) monitoring and follow-up. In general, allowable services are those that include assistance in accessing a medical or other service, but do not include the direct delivery of the underlying service.

**With respect to the Title XX Social Services Block Grant Funds and the Early Start Program, both of these federal fund sources are contingent upon a set amount of funding that the state receives from the federal government in the form of overall block grants.** As such, the state is limited in its ability to obtain additional federal funds for these two items unless Congress and the President appropriate additional funds.

**Background-- The Home & Community-Based Services Waiver:** Under this Waiver, California can offer services to individuals who would otherwise require the level of care provided in an intermediate care facility for persons with developmental disabilities. Use of these "waiver services", such as assistance with daily living skills and day program habilitation, **enable people to live in less restrictive environments such as in their home or at a Community Care Facility.**

**California obtained federal approval in 2003 to amend the Waiver to increase the number of individuals that can be enrolled each year as follows:**

October 1, 2003 to September 30, 2004	60,000 individuals
October 1, 2004 to September 30, 2005	65,000 individuals
October 1, 2005 to September 30, 2006	70,000 individuals

**Generally, there are *four basic criteria* required for a consumer to be enrolled on the Waiver. These are that the individual:**

- Be enrolled for full-scope Medi-Cal;
- Meet certain level-of-care eligibility criteria (i.e., otherwise need institutional care);
- Live in an eligible residential environment (i.e., not in a health facility); and
- Choose enrollment.

**Governor's Proposed Budget:** The Governor's budget assumes the **following key adjustments** to federal funds as contained in the Regional Center Estimate Package:

- **Delay** in federal approval to add respite voucher services to the Waiver **for a loss of about \$5 million in funding. Implementation is expected as of October 2004.** The DDS notes that additional discussions with stakeholder groups is needed before regulations are completed. Draft regulations from the DDS are forthcoming shortly.
- **Decrease of \$13.2 million** for certain Waiver administrative activities conducted by Regional Centers due to the need for additional DDS analysis as to how to proceed with capturing data.
- Obtained federal approval to lift the existing freeze on enrollment under the Waiver for South Center Los Angeles Regional Center. **Billing for new eligible consumers will be retroactive to October 1, 2002.**
- Obtained federal approval to obtain increased federal funds in 2003-04 as contained in the Budget Act of 2003 for (1) certain transportation activities, and (2) supported living arrangements.
- **Pending the federal CMS approval,** the budget assumes savings of **\$27 million** due to increased federal funds by changing the methodology and re-calculating the Targeted Case Management (TCM) billing rates to more accurately capture federal reimbursements. **However, the federal CMS has had the state's request for a significant period of time and has not yet provided the state with approval.**

**Subcommittee Staff Comment:** The DDS has done a tremendous job in capturing federal funds over the course of the last few years. **However, some additional federal funds can be achieved. First and foremost is additional federal funding for the inclusion of South Central Los Angeles Regional Center (SCLARC) onto the Home and Community-Based Waiver.**



**The DHS, as the state’s sole state Medicaid entity, has been informed by the federal CMS that California will be able to obtain retroactive approval to 1999-2000 for SCLARC. This retroactive availability of increased federal funds is not captured in the Governor’s budget. As such, SCLARC billings for consumers eligible for the Waiver can be recognized for 1999-2000, 2000-01 and part of 2002-03. According to data obtained from the DHS, a total of \$29.9 million in additional federal funds has been identified for these two fiscal years. As such, these funds can be used to offset General Fund.**

**Second, once the state finally receives federal CMS approval for the Targeted Case Management adjustment, the state may be able to go retroactive on this adjustment. At a minimum, California should at least ask the federal government for retroactive application.**

**Third in the foreseeable future, possibly a year from now, California may be able to capture increased federal funding for the Early Start Program and for certain residential care facilities—Intermediate Care Facilities for the Developmentally Disabled.**

**Subcommittee Request and Questions:** The Subcommittee has requested the DDS to respond to the following questions:

- **1. DDS/DHS, Any comment regarding the \$29.9 million now available due to the state’s ability to go retroactive to 1999-2000 for SCLARC?**
- **2. DDS, please provide an update on the status of federal discussions regarding the Targeted Case Management Program.**
- **3. LAO, Please provide comment regarding the potential for capturing federal funds for ICF-DD facilities.**
- **4. DDS, Please provide comment regarding the potential for capturing federal funds for the Early Start Program.**
- **5. DDS, What other options are potentially available for drawing down additional federal funds?**

**5. Governor's Proposal for a "Family Cost Participation Assessment Program"**  
**(See Hand Out—Flowchart and language)**

**Background—Parental Fee Program for Out-of-Home Placements:** Under the existing Parental Fee Program, parents who have children between the ages of birth to 18 years who reside in a 24-hour, out-of-home facility, (such as a Developmental Center or ICF-DD facilities) are assessed a fee based on (1) the family's annual gross income, (2) number of persons dependent on that income, and (3) the age of the child with the developmental disability. The fees are capped at a maximum of \$662 per month. The DDS administers this program and collects about \$1.7 million annually.

**Budget Act of 2003:** Due to the fiscal crisis, the prior Administration sought to develop a parental co-payment system for families of children aged 3 through 17 years who lived in a family's home, received services through a Regional Center and were not Medi-Cal eligible. **During the budget negotiations, the Senate rejected the proposal for being too onerous financially for families and for not being particularly well crafted since substantial information was either unknown or missing. As such, detailed budget trailer bill language (i.e., Section 4620.2 of Welfare and Institutions Code) was developed which required the DDS to develop a comprehensive report on a co-payment system by April 1, 2004, for the Legislature. This report has been provided and is discussed below.**

**Governor's April Proposal for Family Cost Participation Assessment Program:** The Administration provided a comprehensive report—"Family Cost Participation Assessment Program"—to the Legislature on April 9<sup>th</sup> in response to last year's trailer bill legislation. **In this report, the Administration recommends to implement an assessment program by January 1, 2005 for families with children aged 3 through 17 years who live in a family's home, receive services through a Regional Center and are not Medi-Cal eligible. The assessment would only be applicable to three services—Respite, Day Care and Camp.**

In developing the assessment program, **the DDS used the following guiding principles:**

- All families who are financially able to participate in the cost of services provided to their children should do so.
- Family cost participation shall be developed in such a manner that will not create an unacceptable financial burden, will maintain the integrity of the family, and encourage families to continue caring for their children in their own home.
- Family cost participation will not compromise the health and safety of consumers receiving services.
- The assessment of family cost participation will not affect the development of the consumer's Individualized Program Plan (IPP).
- Consideration will be given to the number of family members dependent on the income and the number of children who receive services through the RC, while either in the family's home or out-of-home, including developmental centers.
- The system must be simple and cost effective to administer.
- The amount of the family cost participation assessment will be less than the amount of the parental fee for 24-hour, out-of-home placement in order to encourage families to continue caring for their children in their own home.

- The system must not affect the DDS' eligibility for other funding sources (i.e., Home and Community-Based Medicaid Waiver, Early Start funding, and others).
- The system must react to changes in family economic conditions or unforeseen, unusual family hardships, and allow for the re-determination of the level of cost participation based on those changes.

**The Administration's proposed Family Cost Participation Assessment Program would be implemented as of January 1, 2005 and would have the following key attributes (*See Hand Out for Flowchart*):**

**Potential Effect on Families:**

- Based on data provided by the DDS, there were about 22,450 non-Medi-Cal eligible consumers aged 3 to 17 years living in their parent's home (2002 data). It is estimated that there are about **6,800 of these consumers** who have family incomes equal to or greater than 400 percent of the federal poverty level (the proposed threshold).
- Families with children aged 3 through 17 years who live in a family's home, receives services through a Regional Center and are not Medi-Cal eligible **with annual gross income of 400 percent of poverty or above, as adjusted for family size, would share in the cost of services provided to their children. Families with incomes below 400 percent of poverty would be exempt from the proposal.**
- **No enrollment fee would be required**, only a participation fee.
- **A participation fee would be required on three services—Respite, Day Care, and Camping. No other services would be assessed a fee.**
- A consumer's services would still be identified through the Individual Program Plan (IPP) process as now conducted. A family's assessment fee would be applied as part of the purchase of services authorization process, as applicable, based upon the outlined criteria.
- For the families who are assessed a participation fee, **a sliding fee scale would be applied based on the family's annual gross income level. This sliding fee scale would range from 5 percent (at 400% of poverty for family income) to 80 percent participation (at 1300 percent of poverty for family income and higher). In addition, the assessment would be adjusted to recognize a family with two or more children in the home, receiving one or more of the targeted services (i.e., Respite, Day Care or Camp), by offsetting the cost of participation for the second child by 50 percent, the third child by 75 percent, and making no assessment on the services for the fourth or additional children. (DDS will be developing a similar "offset" adjustment for families with children living in out-of-home placements and paying fees under the existing Parental Fee Program.)**
- **The family's share of cost participation would be re-determined annually to assess the appropriate level of cost participation. A re-determination could be made sooner if there was a significant change in family circumstance, such as a severe illness that added a significant financial burden on the family, or a miscalculation of the assessment amount.**
- **The family's income records gathered by Regional Centers to implement and administer this program would be treated as confidential and subject to the provisions of**

existing statute (Section 4514 of Welfare and Institutions Code) pertaining to the confidentiality of records.

**Potential Effect on State Department and Regional Centers for Administration of Program:**

- DDS would promulgate regulations and develop a simplified assessment tool to be used by a Regional Center when determining the family's cost participation. No new staff are being proposed for any aspect of the implementation.
- DDS would establish audit protocols to ensure the consistent and accurate application of the program's process. The DDS notes that these protocols would be monitored during the course of routine audits by randomly selecting samples and verifying specific data.
- No collection of moneys by the state or Regional Center is required. As envisioned by the Administration, the Regional Center would pay its portion of the authorized services, and the family would then purchase the remaining authorized services directly from the providers (i.e., Respite, Day Care and Camp).
- **Regional Centers would receive proposed increases as follows:**
  - **\$570,000 (total funds) and 11 positions in 2004-05 to perform the cost participation assessment function at the Regional Centers beginning January 2005;**
  - **\$912,000 (total funds) and 18 positions for 2005-06 to continue the initial assessments and begin the re-determination process for those families who were phased-in during 2004-05;**
  - **\$770,000 (total funds) and 15 positions for 2006-07 to address on-going needs.**

**Potential Fiscal Effects:**

- **2004-05= No net savings.** It is assumed that \$570,000 would be needed for Regional Center staff and that \$570,000 (total funds) would be reduced from the Purchase of Services expenditures.
- **2005-06= \$2.188 million (total funds) in savings.** It is assumed that \$912,000 would be needed for Regional Center staff and that \$3.1 million (total funds) in the Purchase of Services expenditures would be reduced.
- **2006-07= \$2.7 million (total funds) in net savings on an annual, on-going basis.** It is assumed that \$770,000 and 15 positions would be needed on an **on-going basis** and that \$3.5 million in the Purchase of Services expenditures would be reduced.

**Proposed Key Milestones for Implementation:**

- |   |                       |
|---|-----------------------|
| • Trailer bill language is adopted.                                 | July 2004             |
| • DDS develops regulations in consultation with stakeholders.       | July to November 2004 |
| • Training provided to the Regional Centers on the program.         | December 2004         |
| • Emergency regulations are filed (to Office of Administrative Law) | December 2004         |
| • Family Cost Participation Assessment Program is implemented       | January 2005          |
| • Regulation certificate of compliance is issued by OAL.            | July 2005             |

**Example of Administration's Proposed Family Cost Participation Assessment Program:** In their report, the DDS provides four different examples of how their proposed program would operate. **Here are two of the examples:**

***Example 1:*** A family of four persons, including two adults and two children between the ages of 3 and 17 years are residing at home. One of the children has developmental disabilities and is authorized through their Individual Program Plan (IPP) to receive 60 hours per quarter (total of 3 months) of vouchered respite services. The family's annual gross income is \$73,600 which is at the 400 percent of federal poverty level. **Therefore under the program, the family would be obligated to participate in 5 percent of the 60 hours, or 3 hours per quarter of respite services. Using the hourly rate for vouchered respite services of \$8.57, the family's financial participation would total \$25.71 per quarter or \$8.57 per month.** The Regional Center would pay for the remaining amount (i.e., the 57 hours) of respite service.

***Example 2:*** A family of five persons, including the mother, father, and three minor children, one child with developmental disabilities residing in the home, is authorized 72 hours per quarter of vouchered respite services as indicated in the IPP. The family's annual gross income is \$280,000 which is 1300 percent above the federal poverty level. **Using the program's assessment schedule, the family would be obligated to participate in 80 percent of the 72 hours, or 58 hours per quarter, of respite services. Therefore, the Regional Center would pay for 14 hours per quarter. Using the hourly rate budgeted for vouchered respite of \$8.57, the family's participation would amount to \$497.06 per quarter, or \$165.69 pre month.**

**Subcommittee Staff Comment and Recommendation:** Subcommittee staff believes this proposal has merit and is a significantly different proposal from last year's parental co-payment concept.

**There are several key aspects to proposal which make it reasonable. These are as follows:**

- It does not assess co-payments on services that directly affect the consumer so as to discourage or compromise the development of the consumer. It is limited to three services—respite, day care and camp.
- It begins the assessment at 400 percent of poverty and takes into consideration the size of the family and where or not the family has more than one child receiving services through the Regional Center system. It uses a sliding scale method based on income levels.

- It does not create an administrative bureaucracy for the family, state or Regional Center. In addition, the vendor would process the received family assessment as part of their payment, *not* as a revenue to be paid to the Regional Centers or the state.
- It does not affect infants under three years of age.

**With respect to the Administration's draft trailer bill language, the following additions are recommended for inclusion:**

- **Insert a reporting requirement.** The DDS should be required to report back to the Legislature as of April 2005 on the status of program implementation and initial program operations. Then again as of February 2006, a year after implementation.
- **Insert a clarification regarding emergency regulation authority.** Many departments have over-used emergency regulation authority provided by the Legislature. (The DHS and DMH are primary examples with respect to their managed care programs.) As such, it is recommended that the emergency regulation authority only be in affect for a maximum period of 18 months. Then the standard regulatory process would have to be used.

**Though this proposal has merit, it is recommended to hold this issue OPEN pending the receipt of the Governor's May Revision. In addition, the trailer bill language still needs to be finalized.**

**Subcommittee Request and Questions:** The Subcommittee has requested the DDS to respond to the following questions:

- 1. Please briefly describe the budget proposal, including the *draft* trailer bill language.
- 2. What happens if a family does not pay the assessment?
- 3. Does the proposed savings amount only address the amount of services to be paid for by the assessment amount, or does it take into consideration any change in utilization patterns?
- 4. Please describe how the program would be phased-in across Regional Centers.
- 5. **Is the Administration still contemplating that this program would be extended to children birth to three years of age as originally referenced in the Governor's January budget documents?**
- 6. How would the DDS monitor the affect this program may have on services or produce unintended consequences?

## **6. Statewide Standards for the Purchase of Services (See Hand Out)**

**Background—The Purchase of Services:** The Regional Centers are responsible for providing a series of services, including case management, intake and assessment, community resource development, and individual program planning assistance for consumers. **Regional Centers also purchase services for consumers and their families from approved vendors and coordinate consumer services with other public entities.**

**The Governor’s budget proposes to expend \$2.7 billion (\$1.8 billion General Fund) for Regional Center’s to purchase services for consumers in 2004-05.**

**As recognized in the Lanterman Act, differences (to certain degrees) may occur across communities (Regional Center catchment areas) to reflect the individual needs of the consumers, the diversity of the regions which are being served, the availability and types of services overall, access to “generic” services (i.e., services provided by other public agencies which are similar in charter to those provided through a Regional Center), and many other factors.**

The DDS, in consultation with the Association of Regional Center Agencies, annually allocates POS funds through a contract process in which each RC receives a base allocation and then subsequent allocations as determined by the DDS. **The allocation of POS funds is primarily based on the previous year’s expenditures plus growth which may not be fully reflective of consumers needs in some areas.**

**Background—Individualized Program Plan (IPP):** The provision of services and supports to consumers is coordinated through the Individualized Program Plan (IPP). **The IPP is prepared jointly by an interdisciplinary team consisting of the consumer, parent/guardian/conservator, persons who have important roles in evaluating or assisting the consumer, and representatives from the Regional Center and/or state Developmental Center.**

**Services included in the consumer’s IPP are considered to be entitlements (court ruling).**

**Background—Statewide Standards for POS Have Been Proposed Twice Before and Rejected by the Legislature:** Past approaches to implementing a statewide standard for the purchase of services have not been particularly constructive. **Generally, the Administration has desired broad authority to (1) prohibit any consumer service or support, (2) unilaterally reduce provider rates, and (3) grant unprecedented authority to the RCs to deny services without any opportunities for consumers to appeal (i.e., no fair hearing process). Further, in reviewing past actual expenditures, it would be near impossible to achieve this \$100 million General Fund savings in addition to the continued cost containment provisions unless certain services are eliminated and provider rates in many service categories are further reduced.**

**Governor's Budget Proposal and April 1 Revision (See Hand Outs):** As previously noted, the Governor is proposing a series of cost containment proposals regarding the services and supports for individuals with developmental disabilities. **The most over-arching policy and fiscal issue is this proposal to implement statewide standards for POS.**

**It is assumed that \$100 million (General Fund) will be identified overall with this proposal saving the most substantial portion of the funds. However, no specific dollar reduction has been attributed to this proposal and it is unclear from the revised version (received as of April 12<sup>th</sup>) if the Administration is proposing to eliminate any services, reduce rates or make other reduction measures.**

**Subcommittee Staff Comment:** Though this proposal is better crafted than prior proposals, there is considerable analytical and policy work that remains to be done prior to any implementation. First and foremost is that the proposed trailer bill language gives the Administration carte blanche authority in making programmatic decisions. The Legislature needs to maintain both the policy and fiscal integrity of the program. Second, it is unclear how an individual's IPP would be affected by statewide standards being established. Third, no definitive fiscal analysis has been provided. Without such an analysis, it is impossible to discern if services are being eliminated, rates are being reduced or other services are being too tightly restricted.

**Subcommittee Request and Questions:** The Subcommittee has requested the DDS to respond to the following questions:

- **1. Please briefly describe the core POS services that an individual receiving services through the RC system may receive.**
- **2. Please provide a brief description of the proposal, including key aspects of the draft regulations.**
- **3. Please present the proposed trailer bill language.**
- **4. Would any services have to be eliminated? If so, which ones?**
- **5. What may be the unintended consequences of this proposal?**
- **6. How may an individual's IPP be affected by this proposal?**

**Budget Issue:** Does the Subcommittee want to leave this item OPEN in order for the Administration to contemplate any changes, as well as pending receipt of the May Revision?



## **7. Governor's Proposed Reduction to Regional Center Operations** **(See Language-below)**

**Background on Regional Center Operations:** The DDS developed the "Core Staffing" formula in 1978. The purpose of this formula was to estimate personnel and related expenditures across all 21 Regional Centers in order to ensure accurate budgeting and facilitate fiscal equity at the Regional Centers across the state. Since this time, the formula has been periodically modified to account for certain changes or trends. However it has been well documented (Citygate and Associates Report of 1998) that the Core Staffing formula no longer accurately reflects costs at the Regional Centers. That said, it is still the tool DDS uses for the development of the Regional Centers Operations budget.

**Generally, the RCs Operations budget consists of four components for staffing and operations purposes. These include: (1) mandated services, (2) support functions, (3) special case add-ons, and (4) non-personnel costs.**

- **Mandated services:** This includes consumer intake and eligibility assessment, case management, clinical support, community services (such as communications and customer service), activities associated with community placement planning, and fiscal administration (including vendor and consumer custodial payments).
- **Support functions:** This includes executive and administrative personnel, human resources, internal finance, information systems support, consumer records management and communications and logistics.
- **Special case add-ons and Contracts:** This includes items applicable to certain RCs that provide specific services only (such as Foster Grandparents), and items contracted via RC budgets statewide (such as Life Quality Assessments).
- **Operating expenditures:** This includes rent and/or mortgage, board governance development and facilitation, and all other administrative costs.

**Governor's Proposed Budget—Summary of Baseline and Additional Reduction:** The budget proposes total expenditures of **\$420.1 million (total funds) for RC Operations. This total budgeted amount reflects the following components:**

• Operations Staffing	\$374.4 million (total funds)	increase of \$1.3 million (total funds)
• Federal Compliance	\$27.6 million (total funds)	decrease of \$1.4 million (total funds)
• Contracts and Projects	\$24.5 million (total funds)	increase of \$2.3 million (total funds)
• Cost Containment	<b><u>(\$6.458 million) (total funds)</u></b>	<b>reduction of \$6.458 million (total funds)</b>
<b>Proposed Total</b>	<b>\$420.1 million (total funds)</b>	<b>Net reduction of \$4.7 million</b>

With respect to the *Operations Staffing* category, the following aspects should be noted.

- **\$321.4 million (total funds) is for personal services, including benefits. Of this amount, it is assumed that \$268.5 million (total funds) is allocated for “Direct Services” staff for those activities discussed above under the mandated functions.** (This figure reflects a reduction of \$4 million (total funds) to account for the adjustment regarding intake and assessment as discussed under item 1 of this agenda.) **Therefore, almost 84 percent of the personal services allocation is assumed to be expended on Direct Services.**

Of the remaining **\$52.9 million (total funds)**, it is assumed that these funds are used for **“Administration” staff who conduct those types of functions as described under support functions, above.** This figure reflects a reduction of \$688,000 (total funds) to also account for the adjustment regarding intake and assessment (as discussed under item 1 of this agenda.)

- **\$63.5 million (total funds) is for operating expenses. Of this amount, more than half--about \$33.4 million—is assumed to be expended on rent.**

The Governor’s proposed reduction of \$6.458 million (General Fund) in the Operations budget is an *“unallocated”* reduction and represents about a 1.5 percent reduction to the \$420.1 million (total funds) RC Operations budget.

The Administration is proposing the following trailer bill language to accompany their proposed reduction as follows:

**Add Section 4631.6 to Welfare and Institutions Code as follows:**

“ It is the intent of the Legislature that Regional Centers, in the 2004-05 fiscal year, save \$6.5 million through administrative efficiencies.”

**Constituency Concerns:** The Association of Regional Center Agencies (ARCA) states that the proposed reduction of \$6.5 million will be difficult to absorb. They contend that basic functions performed by Regional Centers will be compromised and that Regional Centers cannot be expected to meet existing mandates or absorb any more mandates without additional resources.

**Subcommittee Staff Comment and Recommendation:** Due to the fiscal crisis, it will be necessary to implement reductions. **If the Subcommittee *chooses* to adopt the Governor’s proposed reduction of \$6.5 million (General Fund), it is recommended to require the Administration to specifically what activities are to be reduced and where said “administrative efficiencies” are suppose to occur.** Otherwise, core direct services—such as case management—that directly pertain to the wellness of consumers could be placed at risk.

**Subcommittee Request and Questions:** The Subcommittee has requested the DDS to respond to the following questions:

- **1.** Please **briefly explain** the budget proposal and how the \$6.5 million (General Fund) figure was derived.
- **2.** Specifically, what does the Administration want to the Regional Centers to reduce?
- **3.** What may be the operational affect of this proposal?

## **8. Transfer of Habilitation Services Program**

**Background:** Assembly Bill 1753, Statutes of 2003, transfers administrative responsibility for the Habilitation Services Program from the Department of Rehabilitation (DOR) to the DDS beginning July 1, 2004

**Governor's Proposed Budget:** The Governor proposes **an increase of \$104.9 million (General Fund) to reflect the transfer of the Habilitation Services Program from the Department of Rehabilitation to the DDS and to fund 14 positions for this purpose.** This proposal requests state support positions to maintain federal funding and quality services as required.

This transfer was approved by the Legislature through the Budget Act of 2003 and is to be effective as of July 1, 2004. The total funding for the Habilitation Services Program is \$126.6 million (total funds).

**Subcommittee Staff Comment and Recommendation:** No issues have been raised by either the LAO or Subcommittee staff. The proposal reflects the agreement adopted last year. **Though some administrative issues remain with constituency groups, the Administration is presently working these through with the individual parties involved.**

**Subcommittee Request and Questions:** The Subcommittee has requested the DDS to respond to the following questions:

- 1. Please provide a brief description of the budget proposal.
- 2. Please provide a brief update regarding the transfer of the program.

**Budget Issue:** Does the Subcommittee **want to adopt the budget proposal?**

## **C. State Developmental Centers**

### **Summary of Funding and Enrollment**

State Developmental Centers (DCs) are fully licensed and federally certified as Medicaid providers via the California Department of Health Services. **They provide direct services which include the care and supervision of all residents on a 24-hour basis, supplemented with appropriate medical and dental care, health maintenance activities, assistance with activities of daily living and training.** Education programs at the DCs are also the responsibility of the DDS.

The DDS operates five Developmental Centers (DCs)—Agnews, Fairview, Lanterman, Porterville and Sonoma. setting Porterville is unique in that it provides forensic services in a secure setting. In addition, the department leases Sierra Vista, a 54-bed facility located in Yuba City, and Canyon Springs, a 63-bed facility located in Cathedral City. Both facilities provide services to individuals with severe behavioral challenges.

**State operated facilities are entitled to payment for Intermediate Care Facility (ICF) services at actual allowable costs for services for individuals with developmental disabilities.** Reimbursement levels for payment of services is based on rates developed by the DDS and approved by the DHS. **Medi-Cal reimbursement is available for most DC services,** except for nine residential units at Porterville DC (no longer eligible due to forensic-related issues).

**The budget proposes expenditures of \$690.1 million (\$370.3 million General Fund), excluding state support, to serve 3,367 residents who reside in the state Developmental Center system. This reflects a caseload decrease of 123 residents and a net decrease in funds of \$24.8 million as compared to the revised 2003-04 budget. However, while the proposed budget for 2004-05 reflects savings from the on-going decline in the DC population, these savings are more than offset by increases in retirement costs and other factors, resulting in a net growth in DC expenditures of 1.4 percent in the budget year.**

**According to recent DDS data, the average cost per person residing at a DC is about \$180,000 annually.** Due to differences between the DCs, including resident medical and behavioral needs, overall resident population size, staffing requirements, fixed facility costs and related factors, the annual cost per resident varies considerably and is as follows:

• Canyon Springs	\$255,574 annual cost per resident
• Sierra Vista	\$213,923
• Agnews	\$208,935
• Lanterman	\$158,336
• Sonoma	\$157,530
• Fairview	\$147,690
• Porterville	\$144,015

**It should be noted that the Governor's budget proposed to close Agnews Developmental Center as of June 30, 2005. However in a recent letter from Director Allenby, the Administration has decided to delay closure until June 30, 2006. Further, it is the understanding of the Subcommittee staff that issues regarding Agnews Developmental Center will be brought forward at the time of the Governor's May Revision. As such, these issues will be placed on the Subcommittee's agenda at that time.**

## **ITEMS FOR DISCUSSION**

### **1. Developmental Center Adjustments for Population**

**Background:** Each year, the budget is adjusted to reflect direct care and non-level-of-care staffing requirements in order to meet resident needs and licensing requirements. These staffing adjustments are based on the projected number of individuals living at the DCs and their individual program needs based on the Client Developmental Evaluation Report (CDER) process.

The DC population is based on three components—admissions, placements from the DCs and deaths.

**Population Estimates:** At this time, it is estimated that the DC population will be 3,490 residents in 2003-04 and will continue on the present long-term trend and decrease through the remainder of the current fiscal year and the budget year. **Specifically, the DC estimate projects that the average population will be 3,367 for 2004-05, for a net reduction of 123 residents (as of June 30, 2005).**

The budget assumes the following population information for each facility:

<b>Developmental Center</b>	<b>2004-05 Population</b>	<b>Change from Current Year</b>
<b>Agnews</b>	339	-60
<b>Canyon Springs</b>	61	17
<b>Fairview</b>	745	-18
<b>Lanterman</b>	608	-16
<b>Porterville</b>	760	-31
<b>Sierra Vista</b>	56	1
<b>Sonoma</b>	798	-16
<b>TOTALS</b>	<b>3,367</b>	<b>-123</b>

It should be noted that these caseload adjustments **will be updated at the May Revision.**

**Governor's Proposed Budget:** The budget proposes a net decrease of about \$15.2 (decrease of \$8.8 million General Fund, and a decrease of \$6.4 million in Medi-Cal reimbursements) due to a projected decrease of 123 residents at the DCs.

However as noted by the LAO, while the proposed budget for 2004-05 reflects savings from the on-going decline in the DC population, these savings are more than offset by increases in retirement costs and other factors, resulting in a net growth in DC expenditures of 1.4 percent in the budget year.

**Subcommittee Request and Questions:** The Subcommittee has requested the DDS to respond to the following questions:

- 1. Please provide a **brief summary** of the proposal.
- 2. Does this budget year estimate capture all adjustments for employee compensation and retirement changes, or are additional adjustments forthcoming at the May Revision?
- 3. Does the DDS have any proposals to share regarding options for potential cost-containment at the Developmental Centers?

**Budget Issue:** Does the Subcommittee want to hold this item OPEN pending the receipt of the May Revision?

## **2. Proposal to Contact Out for Certain Services**

**Background—DC Food Preparation:** The five DCs all have large, institutional kitchens where food for the DC residents is now prepared by state personnel. Due to the fragile medical condition of many of the DC residents and the resulting dietary restrictions, food preparation at the DCs is more complex than is typically the case for other institutions. Many DC residents have special meal plans prepared for them by dieticians and medical staff.

**Background—California State Constitution:** Provisions of the California Constitution and case law limit the practice of contracting-out, especially in regard to programs which already have state staffing in place performing a state governmental function.

**Governor's Proposed Budget—Contract Out:** The Governor proposes a reduction of \$1.6 million (\$910,000 General Fund) and 459 state positions by contracting out for food services at the Developmental Centers. Under this proposal the DDS would begin contracting out for food services as of January 1, 2005.

**This proposal would require a state constitutional amendment to enact.** For this reason, the Administration has proposed to place an amendment to the State Constitution on the November 2004 ballot so that this proposal and other contracting-out efforts affecting other departments could be implemented in the budget year.

**Subcommittee Staff Recommendation:** Without regards to the merits of the proposal, adoption of this item by the Subcommittee would be deemed to be illegal. As noted above, and by the LAO, a constitutional amendment would be needed for enactment. **Since the budget must be enacted in July, there is presently no other option but to reject the Governor's proposal and to restore the \$1.6 million (\$910,000 General Fund) in order to ensure the safety of DC residents.**

**LAST PAGE OF AGENDA**



